MINUTES OF THE COURT OF APPEAL STATE OF CALIFORNIA SECOND APPELLATE DISTRICT

November 24, 1998

DIVISION ONE

B117858 Kahn (Not for Publication)

v.

Nicholson

The judgment is reversed. Plaintiff to recover costs on appeal.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

B117375 Spina (Not for Publication)

V.

California Fair Plan Association

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.

Masterson, J.

B119990 People (Not for Publication)

v.

Tillman

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Ortega, J.

DIVISION ONE (Continued)

B111548 People (Not for Publication)

v.

Sanchez

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Ortega, J.

B122468 People (Not for Publication)

v.

Hampton

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Masterson, J.

B123832 Los Angeles County, D.C.S. (Not for Publication)

v.

Diane M.

The orders are affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.

Masterson, J.

DIVISION ONE (Continued)

B122368 People (Not for Publication)

v.

Gilberto Q.

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Masterson, J.

B118028 In re Shargrace A., et al., Persons Coming Under the Juvenile Court Law.

Los Angeles County, D.C.S. (Not

(Not for Publication)

v.

Shawna A. et al.

The order terminating the parental rights of Shawna A., Kevin H., Charlie B., and Robby B. is reversed. The matter is remanded for a new hearing on the selection and implementation of a permanent plan.

Masterson, J.

We concur: Spencer, P.J.

Dunn, J. (Assigned)

B099084 Blackmon, a minor, etc. (Not for Publication)

V.

Pomona Unified School District

The order granting a new trial is reversed with respect to the issue of liability and is affirmed with respect to the issue of damages. The matter is remanded for a new trial on damages. The parties are to bear their own costs on appeal.

Masterson, J.

We concur: Ortega, Acting P.J.

Dunn, J. (Assigned)

DIVISION ONE (Continued)

B120744 People (Not for Publication)

v.

Esquivias

The judgment is modified by striking the Penal Code section 12022, subdivision (a)(1) enhancements for counts 2, 3, and 4. The trial court is directed to prepare a new abstract of judgment reflecting these changes. As modified, the judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.

Dunn, J. (Assigned)

B121410 Tsui, et al. (Not for Publication)

v.

Tsai Chang

The judgment is affirmed.

Masterson, J.

We concur: Vogel (Miriam A.), Acting P.J.

Dunn, J. (Assigned)

B119102 People (Not for Publication)

v.

Johnson

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.

Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B115611 People (Not for Publication)

v.

Alvarez

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.

Vogel (Miriam A.), J.

B117005 People (Not for Publication)

v.

Chavez

The judgment is modified to reflect the imposition of a \$2,000 parole revocation fine pursuant to Penal Code section 1202.45. As modified, the judgment is affirmed. The clerk of the court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Dunn, J. (Assigned)

B118615 People (Not for Publication)

V. Hin

Hind

The judgment is affirmed. The clerk of the superior court is directed to prepare a corrected abstract of judgment, reflecting a conviction of possession of methamphetamine in violation of Health and Safety Code section 11377, and forward a copy thereof to the Department of Corrections.

Spencer, P.J.

I concur: Masterson, J.

I concur in judgment only: Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B116542 People (Not for Publication)

v.

Sanchez

The judgment is modified to reflect the imposition of \$400 in restitution fines pursuant to Penal Code section 1202.4, subdivision (b), and \$400 in a parole revocation fine pursuant to section 1202.45. As modified, the judgment is affirmed. The clerk of the court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections.

Spencer, P.J.

We concur: Ortega, J.

Masterson, J.

B120300 People (Not for Publication)

v. Smith

The judgment is modified to reflect that the sentence imposed on Count III is life imprisonment and to reflect the imposition of principal-armed enhancements on Counts I through VII, with the enhancements stayed on Counts IV through VII. As modified, the judgment is affirmed. The clerk of the court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

DIVISION ONE (Continued)

B123199 Los Angeles County, D.C.S. (Not for Publication)

v.

Sidney R.

The order terminating Sidney's parental rights and freeing Eson for adoption is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Dunn, J. (Assigned)

B124951 Lavretsky (Not for Publication)

v.

Superior Court, Los Angeles County

(Pavlovsky et al., r.p.i.)

Let a peremptory writ of mandate issue compelling the trial court (1) to vacate its order overruling the demurrer to the second cause of action for negligent infliction of emotional distress, and (2) to enter a new order sustaining that demurrer with leave to amend. The parties are to pay their own costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Ortega, J.

DIVISION ONE (Continued)

B118160 People (Not for Publication)

v.

Carranza

The judgment of conviction of evading a police officer in violation of Vehicle Code section 2800.2, subdivision (a), is affirmed. The petition for a writ of error coram vobis is granted, the judgment of conviction of possession for sale of cocaine in violation of Health and Safety Code section 11351 is vacated, and the cause is remanded to the trial court to hold a hearing and determine, by such means as the trial court deems appropriate, which version of the reporter's transcript is correct. If the trial court determines that Carranza's trial counsel stipulated that the substance "contained cocaine," the judgment on the possession for sale count shall be reinstated and deemed affirmed as of that date. If the trial court determines that Carranza's trial counsel stipulated only that the substance contained a substance "resembling" cocaine, the judgment on the possession for sale count shall be deemed reversed as of that date, the trial court shall enter a judgment of dismissal on that count, and Carranza shall be resentenced.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Ortega, J.

B118713 People (Not for Publication)

v. Canel

The judgment is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Masterson, J.

DIVISION ONE (Continued)

B121220 Gavin (Not for Publication)

v.

Pacificare of California

The order is affirmed.

Spencer, P.J.

We concur: Ortega, J.

Vogel (Miriam A.), J.

B113259 Love (Not for Publication)

v.

Wilson, et al.

Conservatorship of Brian D. Wilson

The appeal from the order sustaining Billet's demurrer to the surcharge petition without leave to amend and the order approving conservator/guardian ad litem's settlement of the surcharge petition and fee claims is dismissed. The appeal from the order exonerating conservator/guardian ad litem from further obligation under appellant's settlement agreement with conservatee is affirmed. Respondents are to recover their costs on appeal.

Spencer, P.J.

We concur: Masterson, J.

Dunn, J. (Assigned)

B121570 Turner (Certified for Publication)

v.

Superior Court, Los Angeles County

(Kaiser Foundation health Plan, Inc. et al., r.p.i.)

The petition is denied. The parties are to pay their own costs of these writ proceedings.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.

Masterson, J.

DIVISION ONE (Continued)

B113144 Anaya, et al. (Not for Publication)

v.

Nissan motor Acceptance Corp., et al.

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.

Masterson, J.

DIVISION TWO

B120512 Los Angeles County, D.C.S. (Not for Publication)

v.

Ronald A. L.

The order under review is affirmed.

Fukuto, J.

We concur: Boren, P.J.

Nott, J.

B106753 Cook (Not for Publication)

v.

Knothe, et al.

The judgment is affirmed. The parties are to bear their own costs on

appeal.

Zebrowski, J.

We concur: Boren, P.J.

Nott, J.

DIVISION TWO (Continued)

B118547 Andersen (Certified for Publication)

v.

Superior Court, Los Angeles County

(Quackenbush, etc., r.p.i.)

The petition for writ of mandate is denied, and the alternative writ discharged. The temporary stay is vacated. Petitioner is to bear the costs of this petition.

Zebrowski, J.

We concur: Boren, P.J.

Fukuto, J.

B107317 Waffer International Corporation (Not for Publication)

v.

Fritz Companies, Inc., et al.

The judgment confirming the arbitration award is affirmed.

Fukuto, Acting P.J.

We concur: Zebrowski, J.

DIVISION THREE

B119236 Christopher D. Boyle

V.

City of Redondo Beach, et al.

Filed order granting petition for rehearing. Cause resubmitted.

B115359 People

v

Otis Michael Thomas

Filed order modifying opinion. (No change in the judgment)

DIVISION THREE (Continued)

B102795 People (Certified for Publication)

B123833 v.

Wesley Sanders III

The judgment is reversed; the matter is remanded t the trial court for any further appropriate proceedings. The petition for writ of habeas corpus is denied.

Goodman, J. (Assigned)

We concur: Klein, P.J.

Croskey, J.

B122760 Los Angeles County, D.C.S. (Not for Publication)

v.

Norene S.

The orders are affirmed.

Klein, P.J.

We concur: Kitching, J.

Aldrich, J.

B119753 People (Not for Publication)

v.

Russell Martin

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.

Aldrich, J.

DIVISION THREE (Continued)

B117440 People (Not for Publication)

v.

Clarence Demetrius Tate

The conviction is affirmed, and the case is remanded to the trial court for further proceedings in accordance with this opinion.

Klein, P.J.

We concur: Croskey, J.

Aldrich, J.

B122276 Los Angeles County, D.C.S. (Not for Publication)

v.

Gwendolyn G.

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.

Kitching, J.

B104777 People (Certified for Partial Publication)

v.

Maral Zeghtchanian

The judgment is affirmed.

Goodman, J. (Assigned)

We concur: Croskey, Acting P.J.

Aldrich, J.

DIVISION FOUR

B117451 People (Not for Publication)

v.

Barlow

The judgment of conviction is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.

Curry, J.

B119031 People (Not for Publication)

v.

Gabriel V.

The judgment is reversed as to count 1, and the matter is remanded to the juvenile court for redetermnation of the period of confinement. The judgment is affirmed in all other respects.

Curry, J.

We concur: Vogel (C.S.), P.J.

Hastings, J.

B121522 Los Angeles County, D.C.S. (Not for Publication)

V.

Frederick N., et al.

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.

Hastings, J.

DIVISION FOUR (Continued)

B118436 Cilderman (Certified for Publication)

v.

City of Los Angeles

The order is reversed. Appellants to have their costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.

Curry, J.

B110859 Mosebay (Not for Publication)

v.

State Teachers' Retirement System

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.

Curry, J.

B121329 Koontz (Not for Publication)

v.

Johnston

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.

Hastings, J.

DIVISION FOUR (Continued)

B115437 Alszeh (Certified for Publication)

v.

Home Box Office

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.

Hastings, J.

B119091 Edelstein, Laird & Sobel (Not for Publication)

V.

Carlisle Insurance Co.

The judgment in favor of CIC is reversed and the case remanded for further proceedings in conformity with this opinion. Both sides are to bear their own costs.

Curry, J.

We concur: Epstein, Acting P.J.

Hastings, J.

B124696 Simon (Not for Publication)

v.

S.C.L.A. Marylander

The petition is granted. Petitioner to recover costs.

Hastings, J.

We concur: Epstein, Acting P.J.

Curry, J.

DIVISION FIVE

B104980 Patrick Green

v.

City of Los Angeles

Filed order denying petition for rehearing. Perez, J. would grant rehearing.

B107126 People (Not for Publication)

v.

Guy B. Stone

The judgment is modified to reflect a \$200 restitution fine pursuant to Penal Code section 1202.45. In all other respects, the judgment is affirmed. The clerk of the superior Court is directed to prepare an amended abstract of judgment consistent with this opinion, including the restitution fines imposed pursuant 1202.4, subdivision (b) and 1202.45. The superior court clerk is then to deliver the corrected abstract of judgment to the Department of Corrections. Sanctions are imposed against Robert Helfend in the sum of \$525 payable to the State of California within 10 days after the date of finality of this opinion.

Turner, P.J.

We concur: Armstrong, J.

Godoy Perez, J.

B119120 Maimonides Academy (Not for Publication)

v.

Itzhak Shabtai, et al.

The order granting the preliminary injunction is reversed. Defendants, Itzhak, Jacob, and Moise Shabtai, shall recover their costs incurred on appeal from plaintiff, Maimonides Academy.

Turner, P.J.

We concur: Armstrong, J.

Godoy Perez, J.

DIVISION FIVE (Continued)

B110716 Barbara Ann Lerner (Not for Publication)

v.

Moses Lerner

The order entered January 17, 1997, on Barbara Ann Lerner's motion for the adjudication of community property is affirmed. Barbara Ann Lerner is to recover her costs on appeal from Moses Lerner.

Turner, P.J.

We concur: Grignon, J.

Armstrong, J.

B120477 Los Angeles County, D.C.S. (Not for Publication)

v.

Candi M.

In re Michael H., et al.

The judgment is affirmed.

Godoy Perez, J.

We concur: Grignon, Acting P.J.

Armstrong, J.

B117589 People (Not for Publication)

v.

Montell Garrett

The motion to dismiss is denied. We treat the appeal as a petition for writ of habeas corpus and deny the petition.

Armstrong, J.

We concur: Grignon, Acting P.J.

Godoy Perez, J.

DIVISION SIX

B118210 Hopps (Not for Publication)

v.

Regents of the University of California

The request for sanctions sought under *In re Marriage of Flaherty* (1982) 31 Cal.3d 637, 650 is denied. The order is affirmed. The parties are to bear their own costs.

Stone, P.J.

We concur: Gilbert, J.

Yegan, J.

B115174 People (Not for Publication)

v. Perry

The trial court is ordered to correct the abstract of judgment to reflect a sentence of life without the possibility of parole, and to impose a \$200 restitution fine. The trial court shall forward the amended abstract of judgment to the Department of Corrections. As so modified the judgment is affirmed.

Yegan, J.

We concur: Stone, P.J.

Coffee, J.

B120663 People (Not for Publication)

V.

Beaulieu

The clerk of the superior court is ordered to prepare and forward to the Department of Corrections an amended abstract of judgment reflecting the \$150 drug program fee and \$50 crime lab fee. In all other respects, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.

Coffee, J.

DIVISION SIX (Continued)

B121609 People (Not for Publication)

v.

Hanson

The judgment is affirmed.

Yegan, J.

We concur: Stone, P.J.

Gilbert, J.

B118799 People (Not for Publication)

v.

Daniel

The judgment is affirmed.

Yegan, J.

We concur: Stone, P.J.

Coffee, J.

DIVISION SEVEN

B124710 In re Ashley t., Robert T., Jr., and Daniel T.

Robert T. (Certified for Publication)

v.

Superior Court, Los Angeles County

D.F.C.S., Los Angeles County

Let a peremptory writ of mandate issue directing the respondent superior court to vacate its order of August 7, 1998 in case number CK 26317 setting a hearing under section 366.26, and thereafter issue a new and different order (1) requiring the Department to provide additional reunification services to Robert, as to all three children, for a period of six months commencing on the date of finality of this decision as to this court; and (2) setting a hearing, on a date no sooner than six months following the date of its order, to determine whether the children are to be returned to Robert's custody. Such hearing shall be conducted substantially in accordance with the procedures set forth in section 366.22.

Johnson, J.

We concur: Lillie, P.J.

Woods, J.

B112777 People (Not for Publication)

v.

Lopez, et al.

Appellant Lopez's abstract of judgment is ordered corrected to reflect the trial court stayed sentence on count III for possession of methamphetamine for sale (Health & Saf. Code, § 11378) and imposed a principal armed enhancement of one year under Penal Code section 12022, subdivision (a)(1), rather than under Penal Code section 12022, subdivision (b). As corrected, appellant Lopez's judgment of conviction is affirmed. Appellant Zamora's and appellant Gomez's judgments of conviction are affirmed in their entirety.

Johnson, Acting P.J.

We concur: Woods, J.

Neal, J.

DIVISION SEVEN (Continued)

B113240 Foley (Not for Publication)

v.

California Reporting Alliance

The judgment is affirmed as to all defendants except the California Reporting Alliance, Peters Shorthand Reporting Corporation, Ronald Peters, Barbara Peters and Tom Elhart. As to the latter defendants the judgment is reversed and the matter remanded for a new trial limited to the cause of action for interference with prospective economic advantage on the theory of price-fixing by the Alliance and its members. Each party to bear its own costs on appeal.

Johnson, J.

We concur: Lillie, P.J.

Woods, J.

B116455 Smith (Not for Publication)

v.

Melcher

The orders of the trial court are affirmed. Respondent to recover their costs on appeal.

Johnson, J.

We concur: Lillie, P.J.

Neal, J.

B119532 Breton (Not for Publication)

v.

Ziemba

The judgment is reversed. Appellant is awarded costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.

Neal, J.

DIVISION SEVEN (Continued)

B120720 Sandoval (Not for Publication)

v.

Keese, et al.

The judgment is reversed and the cause remanded for further proceedings consistent with this opinion. Appellants to recover their costs of appeal.

Johnson, J.

We concur: Lillie, P.J.

Neal, J.

B118447 Taneja, et al. (Not for Publication)

v.

McCoy

The judgment is affirmed. McCoy to recover costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.

Neal, J.

B118950 McCain (Not for Publication)

v.

Franchise Tax Board

The judgment is affirmed. Respondent to recover costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.

Neal, J.

DIVISION SEVEN (Continued)

B119223 Richland Mortgage Corp. (Not for Publication)

v.

Kern et al.

The judgment is affirmed. Respondents to recover costs on appeal.

Woods, J.

We concur: Johnson, Acting P.J.

Neal, J.

B100720 Webb (Not for Publication)

v.

State of California, Dept. of Rehabilitation, et al.

The order is affirmed. Respondents to recover costs on appeal.

Woods, J.

We concur: Lillie, P.J.

Johnson, J.